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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,294	02/26/2004	William F. Geraghty	21377	3434

7590 05/19/2005

Peter N. Lalos
Stevens, Davis, Miller & Mosher, LLP
Suite 850
1615 L Street, NW
Washington, DC 20036-5622

EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,294

Applicant(s)

GERAGHTY, WILLIAM F.

Examiner

Árpád Fábián Kovács

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/26/2005 & 4/25/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 20-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in the reply filed on 4/25/2005 is acknowledged.

The traversal is on the ground(s) that Group I and Group II are not different inventions.

This is not found persuasive because:

- claim 1 recites a machine with elements having:

"a receptacle mountable ... discharged therein"

the moldboard "disposed forwardly of a lower front end"

- claim 20 recites a machine with elements having:

"... a lower, forwardly disposed roll having a transversely disposed axis, an upper, rearwardly disposed roll having a transversely disposed axis, and endless belt trained about said rolls ..."

the moldboard "... pivotal about the axis of said lower, forwardly

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disposed roll"

it is clear from above, that the differences are more than "reciting an additional element, i.e., a receptacle for receiving articles gathered by the endless conveyor" as the applicant argued. Although, the receptacle, as shown above, is a major part of the reason why the restriction was made.

The requirement is still deemed proper and is therefore made **FINAL**.

Claim Rejections - 35 USC § 102

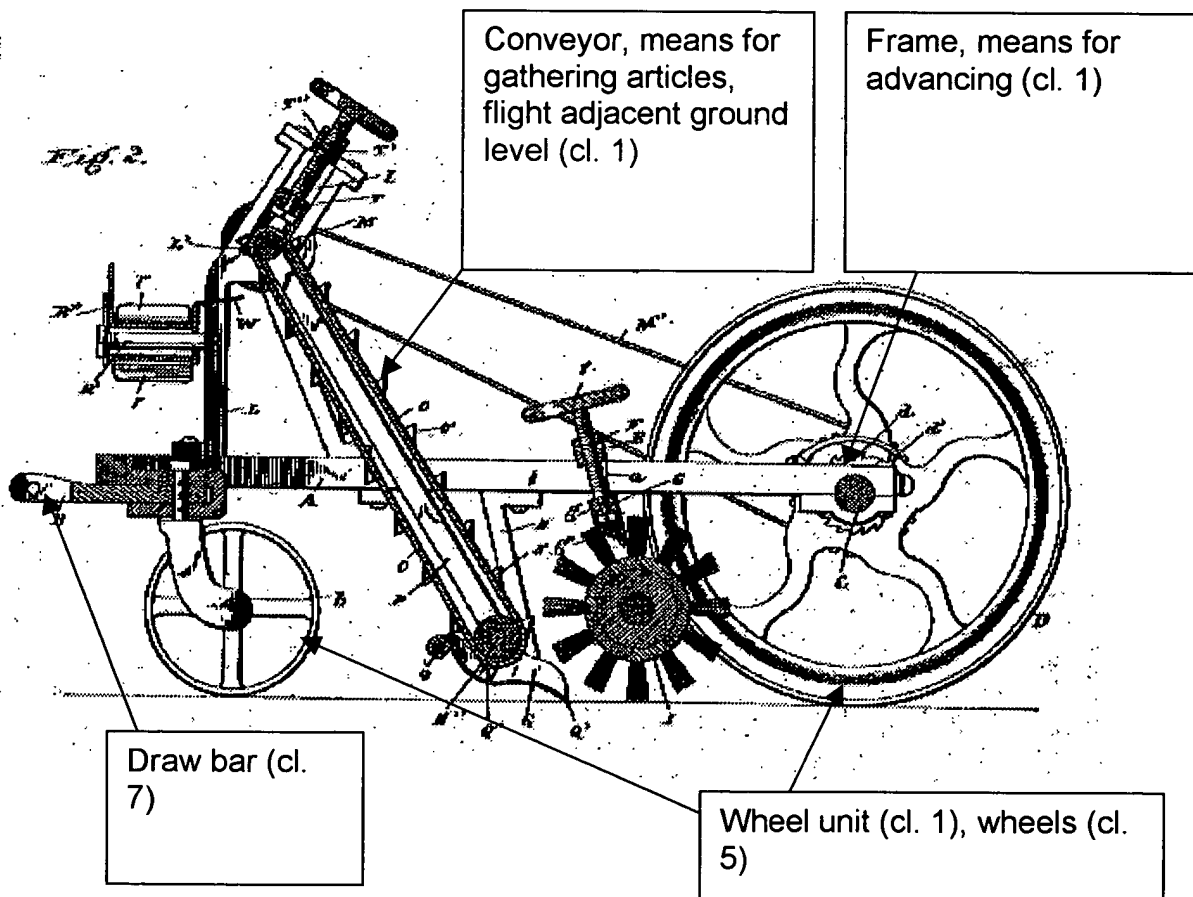
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

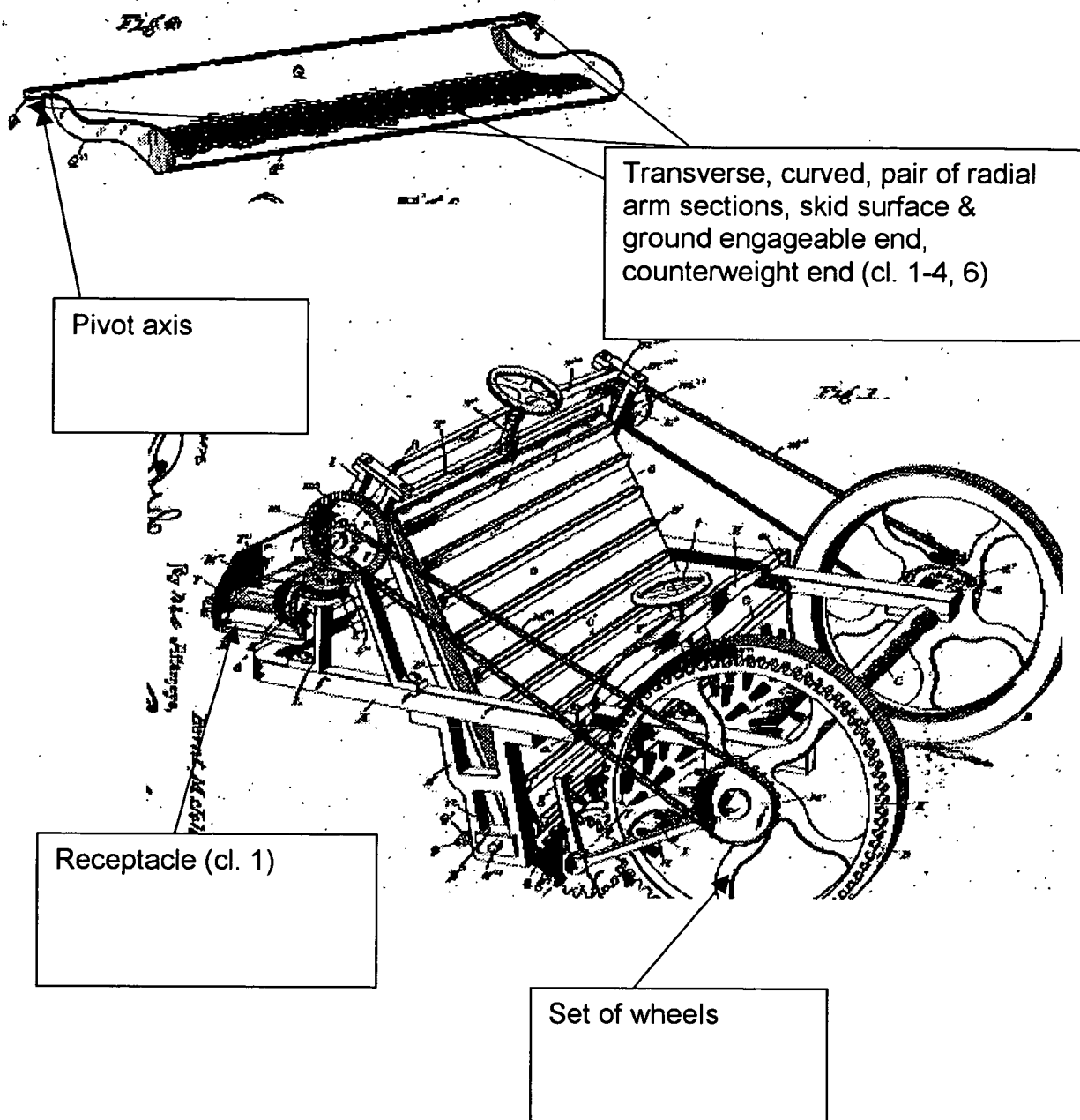
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (501515).

Johnson discloses:



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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (501515), in view of Claude (EP 319420 A2).

Johnson discloses the claimed invention except for a different material design for the endless conveyor as claimed.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use perforated/chain link material in constructing the endless the conveyor, as shown in fig 8 of Claude, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

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6. Claims 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (501515), in view of Persoons et al (4287707).

Johnson discloses the claimed device except for the tines, bin as claimed.

Persoons discloses (it meets also the limitations of at least the independent claims) that it is known in the art to provide a tines on the conveyor (see fig 2G) and cooperating tines or brush (see different design choices: fig 2A, 2B, 2H etc...), bin/hopper supported on the frame (col. 3, 24-25). Examiner takes Official Notice that bin/hopper with wheels & hinged cover is very well known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the conveyor & means for receiving the articles of Johnson with the alternate design taught by Persoons, in order to ensure that the conveyor stays clean from the articles, and make it more convenient in collecting the articles.

Response to Arguments

7. Applicant's arguments filed 1/26/2005 have been fully considered but they are not persuasive.

It has been noted that claim 31 is amended to depend from claim 20.

Also, it is noted that appears to be a typographical issue at claim 30. Claim 30 now has to an extra sentence.

It is unclear which claim the Applicant's argues on page 5, where the Applicant argues that the conveyor of the prior art is not provided with means for gathering articles. From claim 1 it is unclear how the prior art's brush (I) and/or buckets (O') would not meet the limitation of "means for gathering articles." It appears that Applicant argues pro prior art, by stating that the prior art "scoops up dirt."

In re Applicant's argument, that the prior art does not show "from a front end upwardly and rearwardly to an elevated rear end" is not agreed with. It appears that the Applicant mischaracterizes the elements disclosed by the prior art with respect to the claim language recited in claim 1. The front end from which the articles are raised upwardly is as the Examiner pointed to, as taught in page

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2, In 18-20, page 2, In 46-48.

In re Applicant's argument, that "no receptacle for receiving debris transported by an endless conveyor" is disclosed by the prior art is not agreed with. Claim 1 recites "a receptacle mountable ... positioned to receive" is clearly disclosed by the prior art, more specifically on page 1, In 15-17, it is disclosed that from the conveyor articles are received in a receptacle / conveyor and a wagon (noted that the wagon inherently known to be a receptacle typified by a bucket or a bag or other device capable of holding articles), therefore, either or both the wagon receptacle or the cross conveyor receptacle would meet the above cited limitation in claim 1.

In re Applicant's argument, that "no moldboard" is provided by the prior art, the examiner disagrees. Claim 1 recites "a moldboard disposed forwardly of a lower front end of said conveyor, pivotally connected to said support frame," in the prior art the moldboard or dustpan Q is disposed at a lower front end (as established above) of the conveyor & pivotally connected at ref q. Applicant argued that the moldboard of the invention does not scoop up dirt, however the argument is not germane in view of what is claimed.

In re Applicant's argument, on page 5, first paragraph, that the intended use limitation which is inherently not relied on. patentability is not disclosed by the prior art. The Examiner did not find any evidence and/or specific argument to support Applicant's claim and/or claim language that positively recite the limitations Applicant argues.

In re Applicant's argument, that (claim 5) the moldboard of the prior art is not provided with ground engaging wheels, the examiner would like to point out that the moldboard is provided with two ground engaging wheels ref D.

In re Applicant's argument, that (claim 6) the moldboard is not provided with "a ground engageable end and a counter weight end," the examiner would point fig 6, showing a ground engageable end at ref Q' and a counter weight Q".

In re Applicant's argument, that (claim 8 & 9) Claude would be destructive for the intended function of Johnson, the examiner would point out that claim 8 & 9 do not set forth the type of material applicant's invention would be used for, and Johnson & Claude combination can be construed as sweeping up any debris, such as

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paper, straw etc...

In re claim 10-19, Applicant argues the combination references separately. It is noted that the examiner attempts to demonstrate that Persoons shows what already been well established and known to one skilled in the art, that a conveyor can have tines or other means to convey articles. One type of conveyor can be exchanged with another type of conveyor having means to convey articles.

The above arguments and explanations are considered part of the rejection made above.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

AFK

Accepted
5/15/07

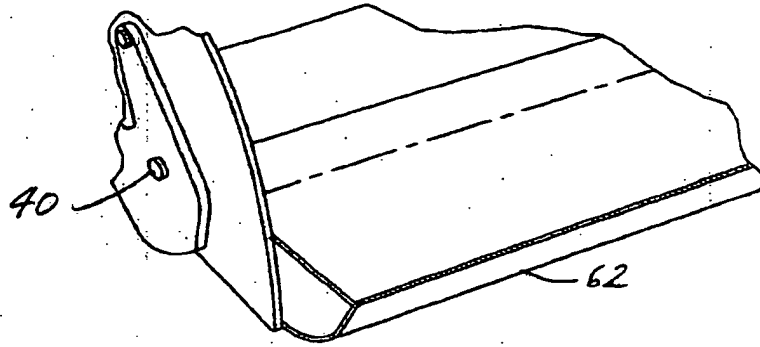


FIG. 6

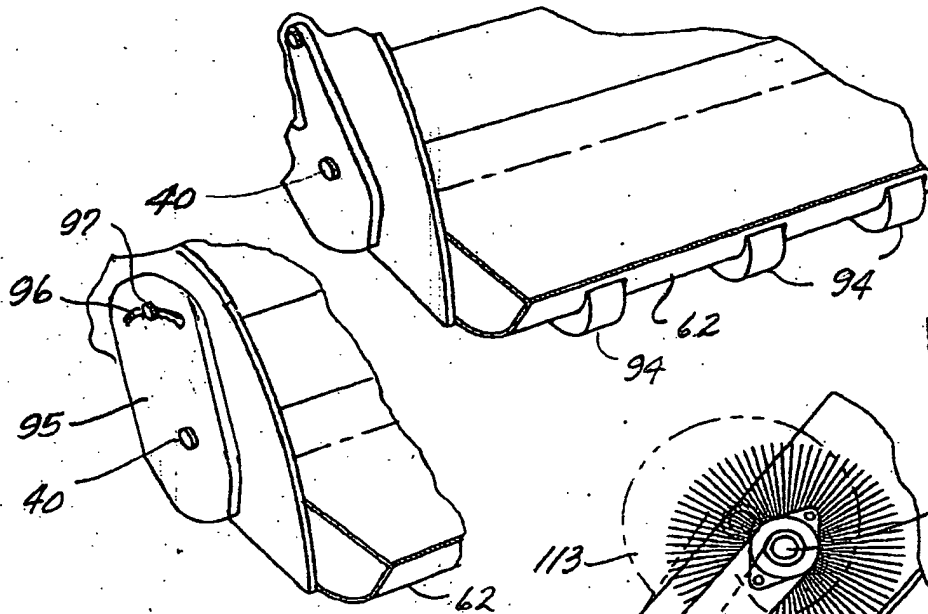


FIG. 7

FIG. 6a

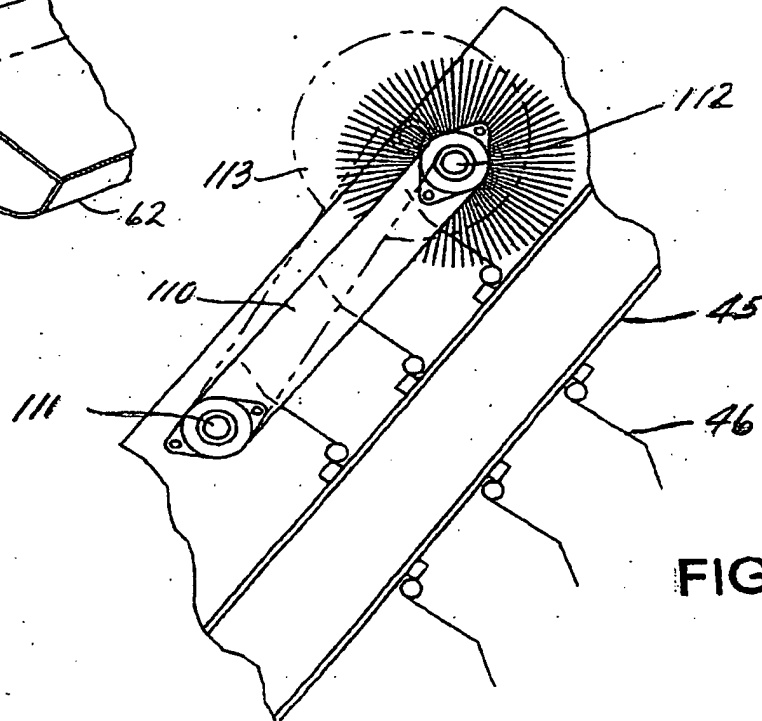


FIG. 8